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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,872	01/10/2002	Robert P. Micciche	460.2060USU	6287

7590 03/29/2006

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EXAMINER

DOUYON, LORNA M


ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

CM 1

Application Number 	Application/Control No. 10/043,872	Applicant(s)/Patent under Reexamination MICCICHE ET AL.	
	Lorna M. Douyon	Art Unit 1751	
Document Code - AP.PRE.DEC			

Notice of Panel Decision from Pre-Appeal Brief Review



This is in response to the Pre-Appeal Brief Request for Review filed March 3, 2006.

1. ☐ **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

- ☐ The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
- ☐ The request does not include reasons why a review is appropriate.
- ☐ A proposed amendment is included with the Pre-Appeal Brief request.
- ☐ Other:

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. ☒ **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

☒ The panel has determined the status of the claim(s) is as follows:
 Claim(s) allowed: _____
 Claim(s) objected to: _____
 Claim(s) rejected: 1-19 and 23-43. See Attachment.
 Claim(s) withdrawn from consideration: _____

3. ☐ **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. ☐ **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) Douglas McGinty. *DMG*

(3) Lorna M. Douyon. *LMD*

(2) Robert Warden. *RW*

(4) _____.

Serial No. 10/043,872
Art Unit 1751

Attachment to Notice of Panel Decision from Pre-Appeal Brief Review

The Pre-Appeal Brief Request for Review, filed March 3, 2006, has been duly noted. All the pending claims, 1-19 and 23-43, remain rejected. With respect to the grounds of rejection, please note:

- The rejection of claims 1-14, 17-19, 23-41 and 43 under 35 U.S.C. 103(a) as being unpatentable over WO 00/30956 is **withdrawn**.
- The rejection of claims 1-19, 23, 30-32, 41-43 under 35 U.S.C. 103(a) as being unpatentable over Tyerech et al. (US Patent No. 5,712,240) is **maintained**.
- The rejection of claims 24-29 and 33-40 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Tyerech, further in view of WO 00/30956 is **maintained**.
- Claims 15-16 and 42 stand rejected under 35 U.S. C. 103(a) as being unpatentable over WO '956 as applied to the above claims, further in view of Tyerech, is **withdrawn**.

Respectfully submitted,

Lorna M. Douyon

Lorna M. Douyon

Primary Examiner

Art Unit 1751

confer

Douglas McEnty

Supervisory Patent Examiner

Art Unit 1751

APPEAL CONFERENCE: *Robert J. Warden, Sr.*